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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,536	11/13/2006	Patrick Lenoir	016782-0366	2986
22428 7590 05/11/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER NDUBIZI, CHUKA CLEMENT	
			ART UNIT 3743	PAPER NUMBER
			MAIL DATE 05/11/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,536

Applicant(s)

LENOIR, PATRICK

Examiner

CHUKA C. NDUBIZU

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Amendment

Applicant's amendment filed on January 16 2009 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 37-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riepe et al 6,665,950 in view of Grochowski et al 4,752,213. Riepe teaches the invention as claimed (fig 1-7). With regard to claim 37, 46 and 57 Riepe discloses an appliance for providing air and gas to a gas burner having a back tube 9 for receiving air and gas to be combusted, comprising: a gas tube 14 comprising an aperture (at 12) wherein the aperture of the gas tube is provided with a first part (see fig 4) of a detachable connection device, for receiving a second part (fig 6) of the detachable

connection device provided on the back tube 9 for allowing gas from the gas tube to enter the back tube (column 4 lines 24-29). With regard to claim 46 Riepe also discloses a gas burner comprising a gas tube 14 comprising an aperture (through 12) for providing gas inwards to the back tube, the gas burner comprising: a radiant panel 1; and a back tube 9 for providing air and gas to the radiant panel, wherein the back tube has an orifice 17 for allowing air from the air tube to enter inside the back tube, wherein the air tube 15 comprises opposing first and second wall regions (top and bottom of 15) connected by longitudinal wall regions (see fig 1) such that an inside space is enclosed by the first, second, and longitudinal wall regions, wherein the back tube 9 is provided with a second part (fig 6) of a detachable connection device for receiving a first part (fig 4) of the detachable connection device present at the aperture of the gas tube. With regard to claim 57 Riepe also discloses at least one gas burner 1 comprising a radiant panel (column 2 lines 67-68).

With regard to claims 37, 46 and 57 Grochowski discloses a gas burner comprising an air tube 20 comprising opposing first (around flange 71 on both sides of the burner is the first wall region) and second wall 11 regions connected by longitudinal wall regions 20 such that an inside space 2 is enclosed by the first, second, and longitudinal wall regions (see fig 1); an aperture (at 6 fig 1) for providing gas inwards to the air tube, wherein the air tube comprises a first aperture (where the burner is next to 71) at the first wall region for receiving the back tube 30 of the gas burner, wherein the back tube 30 has an orifice 15 for allowing air from the air tube to enter inside the back tube (fig 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Riepe's appliance by having the back tube within the air tube instead of outside the air tube in order to provide an appliance that is compact where the air in the air tube bathes the back tube and cools it as taught by Grochowski (column 2 lines 8-9, 57-59).

With regard to claims 38 and 58 Grochowski also discloses wherein the aperture of the gas tube (through 6) and the first aperture (between the 71s) of the air tube are substantially aligned.

With regard to claims 39, 48 and 59 Riepe also discloses wherein the detachable connection device is a quick connect coupling (column 4 lines 24-26).

With regard to claims 42, and 43 and 62 Riepe also discloses wherein the first part of the quick connect coupling constitutes a female sleeve (see fig 4) for receiving a male tubular organ from the second part (see fig 6) of the quick connect coupling; wherein the female sleeve has in its internal peripheral surface at least one annular groove (where the spring is located) opened towards its interior, and wherein the groove is adapted to receive an annular spring 27 (see fig 7).

With regard to claims 40, 41, 50 and 61 the recitations wherein the first part of the quick connect coupling constitutes a male tubular organ for being received by a female sleeve from the second part of the quick connect coupling; and wherein the male tubular organ has on its external peripheral surface at least one annular groove opened outward, the groove being adapted to receive an annular spring are deemed matters of rearrangement of parts that would not affect the functioning of the appliance. *In re*

Japikse, 181. F.2d 1019, 86 USPQ 70 (CCPA 1950), MPEP 2144.04 VI C. Applicant is only rearranging where the male and female organs are attached and where the groove and spring are located. The Applicant also acknowledged on page 9 lines 11-12 of the specification that the position of the two organs can be reversed.

With regard to claims 44 and 67, Riepe also discloses wherein the gas tube is located outside and adjacent to the air tube (see fig 1).

With regard to claims 44 and 67 Grochowski also discloses wherein the air tube comprises a second aperture (where 6 is located) at the second wall region 11 for communicating with the aperture of the gas tube 6, and wherein the first part of a detachable connection device (the connection to gas supply at 6 is detachable and 6 extends into the air tube) extends to the inside space of the air tube (see fig 1).

With regard to claims 45 and 68 Riepe also discloses wherein the first part (fig. 4) of the detachable connection device is provided with at least one sealing gasket 28 for providing a gas-tight coupling between the first part and the second part (fig. 6) of the detachable connection device.

With regard to claim 55 the recitation wherein the second part of the detachable connection device is provided with at least one sealing gasket for providing a gas- tight coupling between the first and second parts of the detachable connection device is deemed a matter of rearrangement of parts that would not affect the functioning of the appliance. *In re Japikse, 181. F.2d 1019, 86 USPQ 70* (CCPA 1950), MPEP 2144.04 VI C. Applicant is only rearranging where the sealing gasket is located by locating it on the second part instead of on the first part as taught by Riepe.

With regard to claims 47 and 69, Riepe modified by Grochowski (where the air tube surrounds the back tube) the second part of the detachable connection device would be adapted to pass through the first aperture of the air tube in order to complete the connection to the source of gas.

With regard to claims 49 Riepe also discloses wherein the second part of the quick connect coupling constitutes a male tubular organ (fig 6) for being received by a female sleeve (fig 4) of the first part of the quick connect coupling.

With regard to claims 51 and 65 Riepe also discloses wherein the back tube 9 has at its back end a male tubular organ (fig 6), wherein the male tubular organ comprises a piece of tube 11 penetrating in the back of the back tube, and wherein the piece of tube constitutes an injector organ for injecting gas into the back tube 9 (11 is a nozzle column 3 lines 31-32).

With regard to claims 52 and 66 Riepe also discloses, wherein the orifice 17 is provided at a level of the injector (see fig 3).

With regard to claims 53 and 54 the recitations wherein the second part of the quick connect coupling constitutes a female sleeve for being received by a male organ part of the quick connect coupling; and wherein the female sleeve has in its internal peripheral surface at least one annular groove opened towards its interior, and wherein the groove is adapted to receive an annular spring are deemed matters of rearrangement of parts that would not affect the functioning of the appliance. *In re Japikse*, 181. F.2d 1019, 86 USPQ 70 (CCPA 1950), MPEP 2144.04 VI C. Applicant is merely rearranging which one is the male and which one is the female part of the quick

connect coupling. The Applicant also acknowledged on page 9 lines 11-12 of the specification that the position of the two organs can be reversed.

With regard to claims 56 and 70 Riepe also discloses wherein the gas burner is an infrared radiant element (column 2 lines 67-68).

With regard to claims 60 Riepe also discloses wherein one of parts of the quick connect coupling constitutes a male tubular organ (fig 6), wherein the other of the parts of the quick connect coupling constitutes a female sleeve (fig 4), and wherein the male tubular organ is adapted for being received by the female sleeve (see fig 3).

With regard to claims 63 the recitation wherein the male tubular organ has on its external peripheral surface at least one annular groove opened towards the exterior, and wherein the gas burner further comprises the annular spring being received in the annular grooves of the male tubular organ is deemed a matter of rearrangement of parts that would not affect the functioning of the appliance. *In re Japikse*, 181. F.2d 1019, 86 USPQ 70 (CCPA 1950), MPEP 2144.04 VI C. Applicant is only rearranging where the groove and spring are located. Furthermore having the spring on the female and on the male is a matter of duplication of parts that would not result in any new or unexpected result. *In re Harza*, 274 F.2d 699, 124 USPQ 378 (CCPA 1960). Riepe has the spring only on the female part.

With regard to claims 64 Riepe also discloses wherein the second part of the quick connect coupling constitutes a male tubular organ (see fig 6).

Response to Arguments

Applicant's arguments with respect to claims 37, 46 and 57 have been considered but are moot in view of the new ground(s) of rejection. Grochowski discloses a gas burner comprising an air tube 20 comprising opposing first (around flange 71 on both sides of the burner is the first wall region) and second wall 11 regions connected by longitudinal wall regions 20 such that an inside space 2 is enclosed by the first, second, and longitudinal wall regions (see fig 1); an aperture for providing gas inwards to the air tube, wherein the air tube comprises a first aperture (where the burner is next to 71) at the first wall region for receiving the back tube 30 of the gas burner, wherein the back tube 30 has an orifice 15 for allowing air from the air tube to enter inside the back tube (fig 1). Riepe is combined with Grochowski in order to provide an appliance that is compact where the air in the air tube bathes the back tube and cools it as taught by Grochowski (column 2 lines 8-9, 57-59).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUKA C. NDUBIZU whose telephone number is (571)272-6531. The examiner can normally be reached on Monday - Friday 8.30 - 4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chuka C Ndubizu/
Examiner, Art Unit 3743

/Kenneth B Rinehart/
Supervisory Patent Examiner, Art
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